

applicant respectfully traverses the assertion of official notice and requests that the Examiner cite references or provide an affidavit in support of this position. If the examiner cannot cite a reference or provide an affidavit, applicant requests withdrawal of the rejection and reconsideration and allowance of claims 1, 6, and 12.


Claims 2-5 are dependent on claim 1, claims 7-9, and 11 are dependent on claim 6, and claims 13-17 are dependent on claim 12. For reasons analogous to those provided above and elements in the claims, applicant respectfully submits that claims 2-5, 7-9, 11, and 13-17 are not obvious in view of Wojnarowski et al. Therefore, applicant requests withdrawal of the rejections and reconsideration and allowance of claims 2-5, 7-9, 11, and 13-17.

Claim 18 recites "a processor." (emphasis added) The Office action states: "As for claim 18, an IC structure including a memory or a computer element can use the structure in the patent since it is applicable to an Ics." However, Wojnarowski does not teach or suggest "a processor." Therefore, the office action is rejecting claim 18 on a single prior art reference that does not include each of the elements of claim 18. Since not all of the recited elements of claim 18 are found in Wojnarowski et al., applicant assumes that the Examiner is taking official notice of the missing elements. Applicant respectfully objects to the taking of official notice in a single reference obviousness rejection, and pursuant to M.P.E.P. § 2144.03, applicant respectfully traverses the assertion of official notice and requests that the Examiner cite references or provide an affidavit in support of this position. If the examiner cannot cite a reference or provide an affidavit, applicant requests withdrawal of the rejection and reconsideration and allowance of claim 18.

Claims 19-20 are dependent on claim 18. For reasons analogous to those provided above and elements in the claims, applicant respectfully submits that the Office action fails to make a *prima facie* case of obviousness with respect to claims 19-20. Therefore, applicant requests withdrawal of the rejections and reconsideration and allowance of claims 19-20.

Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wojnarowsky [sic] et al. (U.S. Patent No. 5,449,427) in view of Matsuura et al. (U.S. Patent No. 5,798,200).

A *prima facie* case of obviousness requires that at least one of the references provide a teaching, suggestion or motivation to combine references. Wojnarowski et al., as can be seen from the title, is directed to "Processing Low Dielectric Constant Materials for High Speed Electronics", while Matsuura et al. is directed to an "Electrophotographic Image Forming Method." These patents



are in different art areas, and applicant respectfully submits that neither provides a teaching, suggestion, or motivation to combine one with the other. Therefore, applicant requests withdrawal of the rejection and reconsideration and allowance of claim 10.

**So called “prior art” “made of record but not relied upon”**

Several patents were cited as “pertinent to applicant’s disclosure” but not relied upon to reject claims. In view of the fact that the patents were not asserted against any claims, applicant need not respond either to the assertion of their pertinence or to any assertion that any of the listed patents constitutes “prior art” to any pending claim. Applicant expressly reserves the right to challenge any such assertion, should it be included in some future rejection.

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**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone applicant's attorney at (612) 371-2109 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date

October 16, 2001

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 16 day of October, 2001.

Name

Tina Pugh

Signature

[Signature]

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